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Letter dated 18 January 2002 from the Permanent Representative of Costa Rica to the United Nations addressed to the President of the Security Council

In my capacity as Pro Tempore Secretariat of the Rio Group for 2002, I have the honour to attach herewith the working paper produced at the meeting of legal experts designated by Ministries of Foreign Affairs of the member countries of the Rio Group on implementation of Security Council resolution 1373 (2001), which was held in Santiago, Chile on 6 November 2001 (see annex).

I should be grateful if you would arrange to have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Bernd **Niehaus**
Permanent Representative
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Annex to the letter dated 18 January 2002 from the Permanent Representative of Costa Rica to the United Nations addressed to the President of the Security Council

Meeting of legal experts designated by Ministries of Foreign Affairs of member countries of the Rio Group on implementation of resolution 1373 (2001) of the Security Council of the United Nations

Working paper

1. The legal experts and advisers designated by the Ministries of Foreign Affairs of the member countries of the Rio Group, convened by the Pro Tempore Secretariat to a meeting in Santiago, Chile, on 5 and 6 November 2001 to consider the legal issues related to the prevention and suppression of acts of terrorism, particularly within the framework of Security Council resolution 1373 (2001), after two days of fruitful discussions and exchanges of views, agreed on a number of aspects of the future actions that the member countries of the Rio Group should take.

2. They agreed to unequivocally condemn acts of terrorism in all its forms and manifestations as conduct that violates the most basic principles of co-existence among nations and the norms of international law, which accept no justification for the commission of such acts, whatever the grounds invoked.

3. They noted that the recent terrorist acts constitute a grave challenge that threatens the existing legal structures, both internal and international, and agreed on the ineluctable importance of the law in meeting that challenge. They expressed full confidence in the effectiveness of legal mechanisms, both existing and those to be established, to prevent and suppress acts of terrorism. In this connection, they stressed that the battle against this scourge must be waged within the framework of respect for the rule of law, international law and human rights.

4. They agreed that the Rio Group is an appropriate and suitable forum for exchanging views and coordinating such actions as may be appropriate to achieve the common objective being pursued and to contribute to the efforts being made towards this end by the international community.

5. To this end, they agreed to take account in their deliberations the conventions and resolutions adopted by the Inter-American and United Nations systems, particularly Security Council resolution 1373 (2001), that call upon all Member States to take measures to prevent and suppress conduct that constitutes or is related to terrorism.

6. To this end, the delegations had a fruitful exchange of opinions on domestic laws against terrorism currently in force and other relevant legislation.

7. The exchange of opinions revealed the following:

(a) The Rio Group countries have established special inter-institutional and inter-ministerial commissions or other mechanisms to implement within their domestic jurisdictions the decisions of Security Council resolution 1373 (2001). The meeting examined the measures that can be taken directly under existing laws and those that require legislative reform. In some member countries, these commissions

have also been established for the purpose of studying the economic, political and social impact of terrorism and for examining the drafts of the international conventions on terrorism currently being considered by the Organization of American States and the United Nations;

(b) The countries of the Rio Group are firmly committed to ratifying the treaties adopted within the framework of the United Nations and the Organization of American States on the subject of terrorism, as well as related agreements;

(c) A number of Rio Group countries have promulgated administrative acts (executive decrees) to make Council resolution 1373 (2001) part of their domestic law and to ensure compliance with its provisions;

(d) The delegations agreed on the need to strengthen the mechanisms of judicial and extrajudicial cooperation and, where appropriate, to adapt and modernize their laws in this field. In this connection, they noted that some agreements against terrorism contain provisions that constitute an adequate juridical basis for taking these actions. They noted in particular the rule enshrined in these agreements that States must extradite or prosecute, in the latter case independently of whether the crime was committed in the territory of the State in question;

(e) On the subject of the characterization of terrorism as a crime, some delegations were of the view that, while terrorism is still not characterized as such in their legislation, the criminal nature of the act may be deduced from other acts or conduct that are punishable under such legislation. Other delegations indicated that terrorist acts and conduct had been specifically criminalized. In general, they agreed on the need to fulfil the mandates of criminalization contained in international conventions and in Security Council resolution 1373 (2001), by characterizing such conduct in their criminal law and prescribing punishment that is commensurate with the gravity of the offence;

(f) On the subject of money-laundering, a number of delegations reported that this offence applied specifically to drug trafficking, while in others it extended to other forms of organized crime, including terrorism;

(g) In certain countries, the investigation of terrorism was one of the cases in which banking secrecy laws did not apply. In others, legislative reform is required in this area;

(h) Note was also taken of the operation in some countries of intelligence or financial information units, which had also been proposed for other countries. It was agreed that each unit should be involved in combating the different types of organized crime, especially terrorism;

(i) On the subject of the freezing of assets, some delegations reported that they were in a position to take such measures immediately, through direct implementation of Council resolution 1373 (2001), while others reported that they would need to amend their laws in order to do so, where requested by international organizations;

(j) Many delegations underscored the importance of elaborating a new Inter-American convention against terrorism, since it would be easier to reach consensus on a hemisphere-wide instrument. The convention should include the most forward-looking provisions contained in recent agreements in this field;

(k) With regard to paragraph 6 of Council resolution 1373 (2001), a useful exchange of views took place on how to respond to the Security Council's call upon States to provide information to the Counter-terrorism Committee established in the aforementioned paragraph of the resolution. With respect to the modality of preparing these reports, the member countries of the Rio Group have established inter-ministerial or inter-institutional committees under the coordination of the respective Ministries of Foreign Affairs. With respect to the information to be provided to the Security Council, it was agreed that this should be clear and concise and should include an analysis of its basic content and of how the mechanisms described operate in practice. This does not preclude the possibility of including with the information the detailed contents of relevant laws and regulations;

(l) Taking into consideration the fact that each of the member countries of the Rio Group is required to submit a report, it was agreed to entrust to the Pro Tempore Secretariat the task of elaborating a matrix consisting of a comparative table with information from each country on its legislation in this field, any internal, legislative or administrative measures that are adopted to implement the resolution, and participation in international instruments on the question of terrorism;

(m) They agreed to exchange through the Pro Tempore Secretariat information on the new domestic laws that each country enacts to combat terrorism;

(n) Lastly, they agreed that this working paper should be brought to the attention of the national coordinators and Ministers for Foreign Affairs of the Rio Group, who will be meeting on 12 and 14 November, respectively, in New York, within the framework of the fifty-sixth session of the United Nations General Assembly.

Santiago, Chile
6 November 2001